IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6234 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

ASHOKBHAI CHANDUBHAI RATHOD - Petitioner(s)
Versus
STATE OF GUJARAT THRO.THE SECRETARY & 2 - Respondent(s)

==========

Appearance :
MR AMRISH K PANDYA for Petitioner(s) : 1,
MR AY KOGJE, APP for Respondent(s)

==========

CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 08/05/2007

ORAL JUDGMENT

The petitioner herein has challenged the order of detention dated 5.12.2006 passed by the Commissioner of Police, Surat by which the detaining

authority placed the petitioner under preventive detention in exercise of powers under section 3(1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter to be referred to as “PASA”).

2. The detaining authority was of the opinion that the activities of the petitioner are prejudicial to public order and to form such an opinion, the detaining authority took into consideration pendency of two criminal cases against the petitioner alleging offence punishable under section 454, 380 read with 114 of the Indian Penal Code. In addition to the said criminal cases, the detaining authority also took into account the statements recorded by the Investigating agency suggesting acts of assault and threatening of members of public by the petitioner and his companions.

3. It is contended on behalf of the petitioner that the material before the detaining authority was not sufficient to permit him to draw a conclusion that his activities were prejudicial to public order. On the other hand, learned AGP Shri Kogje opposed the petition.

4. Under identical circumstances, on the very same ground, the detaining authority had ordered detention of a co-accused, namely, Pravinbhai Chandubhai Rathod and whose petition being Special Civil Application No.6230 of 2007 has been allowed by this Court by a separate order passed today. Without repeating the

reasons indicated in the said order, I find that the fact situation being identical, this petition is also required to be allowed.

5. In the result, the petition is allowed. The order of detention dated 5.12.2006 passed by the Commissioner of Police, Surat City is quashed and set aside. Since the order of detention is quashed, the detenu is ordered to be released forthwith, if not required in any other case. Rule is made absolute accordingly.

Direct service is permitted.

(Akil Kureshi, J.)

(vjn)